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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/510,987

10/13/2004

Christopher Michael Penfold

2955-207

2253

6449

7590

06/09/2006

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

1425 K STREET, N.W.

SUITE 800

WASHINGTON, DC 20005

EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/510,987

Applicant(s)

PENFOLD ET AL.

Examiner

Bryon P. Gehman

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3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/13/04+2/2/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The preliminary amendment filed October 13, 2004 is improper in form. Claims 1-16 were originally filed, but only claims 1-14 are addressed in the preliminary amendment. This is not in accordance with 37 CFR 1.121. See MPEP 714. As a courtesy, amended claims 1-14 and original claims 15 and 16 will be considered. Clarification of the status of claims 15 and 16 must be provided in accordance with 37 CFR 1.121 must be provided in response to this Office action.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4, 9-10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, "all" should be --wall--.

In claim 4, lines 2-3, "the tablets are provided in a blister pack the tablets of which are located in the pockets" is obtuse and indefinite as written and would apparently read better and as accurately if "the tablets of which" was deleted.

In claim 12, line 3, " wall' " is indefinite as to the meaning of the apostrophe.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6, 8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Donegan (6,832,686). Claims 1-9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Flewitt (6,345,717). Claims 1-4, 6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by White (4,664,262). Claims 1-6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reid (4,574,954). Claims 1-4, 6-8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ardito (4,074,806). Claims 1-6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tester (3,921,804). Each discloses a pack (12 and 14; as shown; Figures 5 and 6; 10; 12; Figure 1; respectively) of medicinal tablets, the pack comprising a base wall (14; 8; 30; 13; 20; 22) which defines a plurality of locations for the tablets, wherein at each such location there is a displaceable pocket (blister of 26; 2; 44; 11; 46; 34) which constitutes a recess for a tablet, a cover piece (rupturable bottom of 26; 5; 46; 16; 48; 38) of a rupturable material and a tablet (as disclosed; 4; as disclosed; 14; T; as disclosed) between the displaceable pocket and the cover piece, wherein the pack is of sufficient rigid construction as to be resistant to permanent deformation.

As to claim 2, each discloses the pockets integral with the base wall.

As to claim 3, each discloses tablets in and of themselves (naked).

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As to claim 4, each discloses the tablets provided in a blister pack (as shown including 26; 2 and 5 together; 42 and 46 together; 17; 44; 32 and 38 together).

As to claim 5, Flewitt, Reid and Tester disclose blisters (2; 11; 34) protruding through openings (9; 12; 26).

As to claim 6, each discloses at least four pockets.

As to claim 7, Flewitt and Ardito disclose the base wall formed from a polymer (see column 4, lines 3-13; see column 3, lines 19-25)

As to claim 8, each discloses the pockets as substantially dome-shaped.

As to claim 9, Flewitt discloses (Figure 5) the pockets integral with the base wall and the junction between a pocket and the base wall is a hinge.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flewitt, as employed against claim 9 above, in view of Reid. Reid further discloses that the pocket can be pushed inwardly causing a stable inverted configuration (see column 1, lines 33-54) bending about a hinge line pre-stressed to invert (see column 2, line 43 through column 3, line 32). To modify the pocket and base wall structure of Flewitt employing the pre-stressing and stable inverted conversion as taught by Reid

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would have been obvious in order to facilitate inverting the pocket and removing the tablet, as suggested by Reid.

As to claim 16, Reid further suggests injection molding as a method to form the pack.

8. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Flewitt and Reid in view of Roulin et al. (5,624,036). Roulin et al. disclose joining two packs together in a pack assembly. To modify the individual pack of either one of Flewitt and Reid employing the pack in an assembly as disclosed by Roulin et al. would have been obvious in order to provide multiple packs in a single arrangement, as suggested by Roulin et al..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

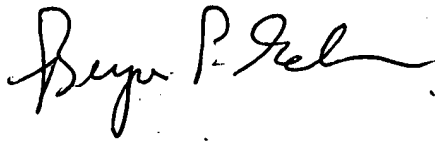
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a large initial "B" and a stylized "G".

Bryon P. Gehman
Primary Examiner
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BPG